

AMENDED IN ASSEMBLY SEPTEMBER 12, 2003

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY SEPTEMBER 3, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN ASSEMBLY JUNE 17, 2003

AMENDED IN ASSEMBLY JUNE 9, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 407

Introduced by Senator Torlakson
(Principal coauthor: Assembly Member Steinberg)

February 20, 2003

An act to add Section 41204.2 to the Education Code, and to add Sections 97.5 ~~and 97.51~~, 97.51, and 97.52 to the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 407, as amended, Torlakson. Local government financing: enterprise special districts: property tax revenue allocations.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also

reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education. Existing law excludes from these reduction and transfer requirements, among other entities, multicounty special districts.

This bill would require, in the 2003–04 fiscal year, that the amount of ad valorem property tax revenue deemed allocated in the 2002–03 fiscal year to an enterprise special district, as defined, be reduced by the lesser of 2 amounts. This bill would decrease this reduction amount by 70% for a district that also performs nonenterprise functions. This bill would also require that those ad valorem property tax revenues that are not allocated to an enterprise special district as a result of these provisions instead be allocated to a county Educational Revenue Augmentation Fund for allocation as otherwise required by law. This bill would also require that ad valorem property tax revenue allocations in the 2004–05 fiscal year and each fiscal year thereafter fully incorporate the allocation adjustments required by the bill.

This bill would also require the county auditor, for *each of* the 2003–04 and 2004–05 fiscal years, to increase the amount of ad valorem property tax revenue allocated to a county by one-half of the county recall election reimbursement amount, as defined, and to reduce the amount of ad valorem property tax revenue allocated to the county Educational Revenue Augmentation Fund by this same amount. *This bill would also require the county auditor, for each of the 2004–05 and 2005–06 fiscal years, to increase the amount of ad valorem property tax revenue allocated to a county by one-half of the county election reimbursement amount, as defined, and to reduce the amount of ad valorem property tax revenue allocated to the county Educational Revenue Augmentation Fund by this same amount.* This bill would also specify that these revenue transfers may not be incorporated to



determine the amount of ad valorem property tax allocated in subsequent fiscal years.

By requiring county auditors to recalculate ad valorem property tax revenue allocations to enterprise special districts and Educational Revenue Augmentation Funds, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~This bill would become operative only if AB 421 of the 2003–04 Regular Session is chaptered.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 41204.2 is added to the Education Code,
- 2 to read:
- 3 41204.2. For purposes of Section 41204.1, “qualifying
- 4 provisions” includes Sections 97.5 and 97.51, 97.51, and 97.52
- 5 of the Revenue and Taxation Code.
- 6 SEC. 2. Section 97.5 is added to the Revenue and Taxation
- 7 Code, to read:
- 8 97.5. (a) (1) Notwithstanding any other provision of law, for
- 9 purposes of making property tax revenue allocations for the
- 10 2003–04 fiscal year, the total amount of ad valorem property tax
- 11 revenue, other than those revenues pledged to debt service,
- 12 deemed allocated to an enterprise special district in the 2002–03
- 13 fiscal year shall, subject to modification under paragraph (2), be
- 14 reduced by the lesser of the following:
- 15 (A) Forty percent.



1 (B) An amount equal to 10 percent of that district's total
2 revenues, from whatever source.

3 (2) For an enterprise special district that also performs a fire
4 protection or recreation and park nonenterprise function, as
5 identified in the most recent edition of the State Controller's
6 Special Districts Annual Report, the amount of the reduction
7 calculated pursuant to paragraph (1) shall be decreased by 70
8 percent.

9 (b) If an enterprise special district is located in more than one
10 county, the auditor of each county in which that enterprise special
11 district is located shall implement that portion of the total
12 reduction, required by subdivision (a) with respect to that district,
13 determined by the ratio of the amount of ad valorem property tax
14 revenue allocated to that district from the county to the total
15 amount of ad valorem property tax revenue allocated to that
16 district from all counties.

17 (c) Those amounts of ad valorem property tax revenues that are
18 not allocated by a county to an enterprise special district as a result
19 of subdivisions (a) and (b) shall instead be deposited in the
20 county's Educational Revenue Augmentation Fund for allocation
21 as otherwise required by law.

22 (d) For the 2004–05 fiscal year and each fiscal year thereafter,
23 ad valorem property tax revenue allocations made pursuant to
24 Section 96.1 shall fully incorporate the allocation adjustments
25 required by this section.

26 (e) For purposes of this section:

27 (1) An "enterprise special district" means a special district,
28 other than a special district described in paragraph (2), that meets
29 both of the following criteria:

30 (A) The special district is not otherwise required by law, for any
31 fiscal year, to have its ad valorem property tax revenue allocation
32 reduced and reallocated to an Educational Revenue Augmentation
33 Fund.

34 (B) The special district is properly included as performing an
35 enterprise activity as identified in the most recent edition of the
36 State Controller's Special Districts Annual Report.

37 (2) An "enterprise special district" does not include any of the
38 following:

39 (A) A qualified special district, as defined in Section 97.34.

1 (B) A district organized pursuant to the Local Health Care
2 District Law set forth in Division 23 (commencing with Section
3 32000) of the Health and Safety Code.

4 (C) A transit district.

5 (D) A district that, on either the operative date of the act adding
6 this section or January 1, 2004, whichever is later, was under a zero
7 wastewater discharge order by the Santa Ana Regional Water
8 Quality Control Board.

9 (E) (i) Except as otherwise provided in clause (ii), a district
10 that meets all of the following criteria:

11 (I) The district is a water agency that does not sell water at
12 retail, as described in clause (ii) of subparagraph (A) of paragraph
13 (2) of subdivision (c) of Section 97.3.

14 (II) The district is not a district described in paragraph (2) of
15 subdivision (a).

16 (III) The district, on the operative date of the act adding this
17 section, is a party to one or more contracts entered into before
18 January 1, 2003, that expressly prohibit, during the term of the
19 contract, excluding renewal options, the agency from increasing,
20 beyond inflationary or incidental adjustments, rates charged to the
21 agency's customers.

22 (ii) When any contract described in subclause (III) of clause (i)
23 is fully performed or renewed, the water agency that was a party
24 to that contract is deemed to be an enterprise special district for
25 purposes of this section that is fully subject to subdivision (a).

26 *(F) A district engaged in hydroelectric power production that,*
27 *on the operative date of the act adding this section, sells all of the*
28 *hydroelectric power it produces to the state pursuant to a contract*
29 *that prohibits the district, during the term of the contract, from*
30 *increasing, beyond inflationary or incidental adjustments, the rate*
31 *paid by the state for that power.*

32 (3) (A) "Revenues pledged to debt service" includes only
33 those amounts required to pay debt service costs in the 2002–03
34 fiscal year on debt instruments issued by a special district for the
35 acquisition of capital assets.

36 (B) For an enterprise special district that issued debt
37 instruments in the 2002–03 fiscal year, "revenues pledged to debt
38 service" includes only those amounts required to pay debt service
39 costs in the 2003–04 fiscal year on debt instruments issued by a
40 special district for the acquisition of capital assets.

1 SEC. 3. Section 97.51 is added to the Revenue and Taxation
2 Code, to read:

3 (a) In allocating ad valorem property tax revenue for *each of*
4 the 2003–04 and 2004–05 fiscal years, both of the following apply:

5 (1) The auditor shall reduce the total amount of ad valorem
6 property tax revenue otherwise allocated to the county
7 Educational Revenue Augmentation Fund by one-half of the
8 county recall election reimbursement amount.

9 (2) The auditor shall increase the total amount of ad valorem
10 property tax revenue otherwise allocated to the county by one-half
11 of the county recall election reimbursement amount.

12 (b) (1) For purposes of this section, “county recall election
13 reimbursement amount” means an amount, as may be reduced
14 pursuant to subparagraph (C) of paragraph (2), equal to a county’s
15 actual costs, plus overhead costs as allowed pursuant to the United
16 States Office of Management and Budget Circular A-87, in
17 conducting the recall election of October 7, 2003. On or before
18 January 15, 2004, the governing body of each county shall notify
19 the Director of Finance of these costs.

20 (2) The amount described in paragraph (1) shall be reduced
21 pursuant to subparagraph (C) if the Director of Finance estimates
22 that the amount in subparagraph (A) exceeds the amount in
23 subparagraph (B):

24 (A) The statewide total of the “county recall election
25 reimbursement amount” for each county in the state.

26 (B) The statewide total amount estimated to be allocated
27 pursuant to Section 97.5 for the 2003–04 and 2004–05 fiscal years
28 to all Educational Revenue Augmentation Funds.

29 (C) If the amount estimated in subparagraph (A) exceeds the
30 amount estimated in subparagraph (B), the statewide total of the
31 amounts determined pursuant to paragraph (1) shall be reduced by
32 an amount equal to this excess amount. The amount of this
33 reduction shall be apportioned among each county in amounts
34 determined in accordance with each county’s proportionate share
35 of the statewide total of the amounts that would be determined
36 pursuant to paragraph (1) in the absence of this subparagraph.

37 (D) The Director of Finance shall make the calculations
38 required by this paragraph and notify the auditor of each county
39 of these amounts and of the allocations required by subdivision (a)
40 on or before April 1, 2004.

(c) For the 2004–05 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.

SEC. 4. *Section 97.52 is added to the Revenue and Taxation Code, to read:*

(a) *In allocating ad valorem property tax revenue for each of the 2004–05 and 2005–06 fiscal years, both of the following apply:*

(1) *The auditor shall reduce the total amount of ad valorem property tax revenue otherwise allocated to the county Educational Revenue Augmentation Fund by one-half of the county election reimbursement amount.*

(2) *The auditor shall increase the total amount of ad valorem property tax revenue otherwise allocated to the county by one-half of the county election reimbursement amount.*

(b) *For purposes of this section, “county election reimbursement amount” means an amount equal to a county’s actual costs, plus overhead costs as allowed pursuant to the United States Office of Management and Budget Circular A-87, in conducting statewide elections in the 2004 calendar year; other than the general election and the direct primary election. On or before January 15, 2005, the governing body of each county shall notify the Director of Finance of these costs.*

(2) *The Director of Finance shall notify the auditor of each county of the allocations required by subdivision (a) on or before April 1, 2005.*

(c) *For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.*

SEC. 5. *Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000),*

1 reimbursement shall be made from the State Mandates Claims
2 Fund.

3 ~~SEC. 5.—~~

4 *SEC. 6.* Section 1 of this act shall become operative only if
5 Senate Bill 1047 of the 2003–04 Regular Session is chaptered.

6 ~~SEC. 6.—This act may not become operative unless Assembly~~

7 ~~Bill 421 of the 2003–04 Regular Session is chaptered.~~

